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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,815	10/30/2003	Sumit Roy	200313236-1	2454

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EXAMINER	
TIV. BACKHEAN	
ART UNIT	**PAPER NUMBER**
2151	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/698,815	ROY ET AL.	
	Examiner	Art Unit	
	Backhean Tiv	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 October 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/04,3/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Claims 1-50 are pending in this application.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 2/5/04,3/07/05 have been considered. The submission is in compliance with the provisions of 37 CFR 1.97.

Drawings

Figure 5A is objected to because the handwritten portion is not legible. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7,16,26,35,41,47,50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "absolutely necessary" in claims 7,16,26,35,41,47,50 is a relative term which renders the claim indefinite. The term " absolutely necessary " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-50 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim1,36,-74 of copending Application No. 10/698,685 in view of US 6,665,706 issued to Kenner et al.(Kenner).

As per claims 1,10,19,29,38,42,44,48, of the present application, copending Application No. 10/698,685 teaches all the limitation except for: a plurality of content providers; a plurality of client devices, wherein one of said content providers, one of said service providers, and one of said client devices form one of a plurality of media service sessions.

Kenner teaches a plurality of content providers(Fig.1,col.7, lines 15-20);

a plurality of client devices, wherein one of said content providers, one of said service providers, and one of said client devices form one of a plurality of media service sessions(Fig.1, col.7, lines 60-65).

Therefore it would have been obvious to modify the teaching of copending Application No. 10/698,685 to include a plurality of content providers; a plurality of client devices, wherein one of said content providers, one of said service providers, and

one of said client devices form one of a plurality of media service sessions as taught by Kenner in order to provide a system to increase network capacity, distribute server load, and reduce transmission delays between the server and the user(Kenner, col.1, lines 15-26).

One ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of copending Application No. 10/698,685 and Kenner in order to provide an improved system of content delivery(Kenner, col.1, lines 15-26).

As per claims 2-5, 11-14, 20-24, 30-33,43, 45,39,49, wherein said information includes information received from said service providers(Kenner, col.8, lines 28-49), information associated with location and priority of service modules that are involved in any one of said media service sessions(Kenner, col.12, lines 59-67, col.13, line 40-43), information received from any client device that is involved in any one of said media service sessions(Kenner, col.8, lines 41-49), information associated with network conditions(Kenner, col.10, line 50-67), and information associated with any content provider that is involved in any one of said media service sessions(Kenner, col.9, lines 5-45). Motivation to combine set forth in claim 1.

As per claims 7,8,16,17,26,27,35,36,41,47,50, wherein said determination to initiate said handoff is made before a need for said handoff is absolutely necessary, and wherein said determination to initiate said handoff is made based on a pattern associated with said information(Kenner, col.9, line 64-col.11, line 20). Motivation to combine set forth in claim 1.

As per claims 6,15,25,34,40,46, further comprising a content delivery network including said plurality of content providers, wherein said information includes information associated with said content delivery network that is involved in any one of said media service sessions(Kenner, Fig.1, col.9, line 64-col.11, line 20). Motivation to combine set forth in claim 1.

As per claims 9,18,28,37, wherein said media service sessions include a streaming technique(Kenner, col.7, lines 60-65). Motivation to combine set forth in claim 1.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-50 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,665,706 issued to Kenner et al.(Kenner).

As per claims 1,10,19,29,38,42,44,48,Kenner teaches a network system comprising:

a plurality of content providers(Fig.1,col.7, lines 15-20);

a plurality of service providers(Fig.1, col.7, lines 5-20);

a plurality of client devices, wherein one of said content providers, one of said service providers, and one of said client devices form one of a plurality of media service sessions, wherein said media service sessions include a streaming technique(Fig.1, col.7, lines 60-65); and

a service manager for managing handoff of media service sessions among said service providers based on information received(col.8, lines 1-5), and wherein said service manager uses said information to determine whether to initiate a handoff of any of said media service sessions from a service provider to another service provider(col.12, lines 36-42);

if it is determined to initiate said handoff, initiating said handoff(col.13, lines 11-60).

As per claims 2-5, 11-14, 20-24, 30-33,39, 43, 45,49, wherein said information includes information received from said service providers(Kenner, col.8, lines 28-49), information associated with location and priority of service modules that are involved in any one of said media service sessions(Kenner, col.12, lines 59-67, col.13, line 40-43), information received from any client device that is involved in any one of said media service sessions(Kenner, col.8, lines 41-49), information associated with network conditions(Kenner, col.10, line 50-67), and information associated with any content provider that is involved in any one of said media service sessions(Kenner, col.9, lines 5-45).

As per claims 7,8,16,17,26,27,35,36,41,47,50, wherein said determination to initiate said handoff is made before a need for said handoff is absolutely necessary, and wherein said determination to initiate said handoff is made based on a pattern associated with said information(Kenner, col.9, line 64-col.11, line 20).

As per claims 6,15,25,34,40,46, further comprising a content delivery network including said plurality of content providers, wherein said information includes information associated with said content delivery network that is involved in any one of said media service sessions(Kenner, Fig.1, col.9, line 64-col.11, line 20).

As per claims 9,18,28,37, wherein said media service sessions include a streaming technique(Kenner, col.7, lines 60-65).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

US Pub. 2003/0210682 issued to Bais et al.

US 6,484,212 issued to Markowitz et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571) 272-5654. The examiner can normally be reached on M-F 7-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Backhean Tiv
2151
6/11/07

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER